IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.8025/06
Smt. Bhuri & Anr. Vs. The MACT & Ors.

5.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri D.K. Garg for petitioners.
Shri J.P. Gupta for respondent.

Heard learned counsel for the parties.

The petitioners who were claimants before the MACT, Dholpur have challenged the order dated 24.4.2006 whereby their application for disbursing the amount of Rs.50,000/- awarded to Fonda on account of death of his son Nanne Khan who is husband of petitioner no.1 and father of petitioner no.2 was rejected. The application had to be filed because Fonda father of deceased Nanne

Khan had in fact already expired during the pendency of the claim petition and this fact could not be brought on record. The learned Tribunal rejected the application on the analogy that the award of compensation was made on 22.7.2007, taking into consideration all the facts and circumstances of the case and without its proof that father of the deceased Nanne Khan has already expired on 24.10.2003, award passed in relation to him was null and void and therefore the petitioners cannot be held entitled to receive the amount of Rs.50,000/- awarded to Fonda father of the deceased Nanne Khan. The analogy taken by the Tribunal cannot be appreciated either in law or on logic. When the quantum of compensation is determined taking into consideration

the age of the deceased, his income as such and other factors that may be relevant but the apportionment thereof amongst the legal heirs of the deceased is made at a secondary stage. Now if it is proved that Fonda, father of the deceased Nanne Khan has already expired even during the pendency of the proceedings before the MACT, it cannot be said that the award passed in relation to him was a nullity. All that is necessary as to whom this amount shall have to be paid.

In these circumstances while setting aside the order passed by the Tribunal, I direct that the amount of Rs.25,000/- shall be paid to each of the petitioners by the respondent no.2 Insurance Company together with interest

at the rate of 9% per annum from the date of filing of the claim petition till the aforesaid amount was originally deposited by the insurance company with the MACT.

The writ petition is accordingly allowed.

(Mohammad Rafiq),J.

Rs/-